

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**vs.**

**TYRISS PENN,**

**Defendant.**

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**Case No. 8:15CR76**

**Case No. 8:15CR79**

**ORDER**

**(Sealed)**

This matter is before the court on the defendant's Motion to Determine the Mental Competency of the Defendant to Stand Trial (#33 in Case No. 8:15CR76 and #21 in Case No. 8:15CR79), pursuant to 18 U.S.C. § 4241(a). On June 3, 2015, the court ordered (#23) that the defendant, Tyriss Penn, may not be presently competent to stand trial and that he should be committed under 18 U.S.C. § 4241(b) to the custody of the Attorney General for hospitalization and testing. The court further ordered that a report should be submitted to the court.

On December 29, 2015, the court received the forensic report from the warden of the U. S. Medical Center for Federal Prisoners, Springfield, Missouri. On January 29, 2016, a hearing was held before the undersigned magistrate. The defendant was present and represented by counsel, Thomas J. Monaghan. The United States was represented by Assistant United States Attorney, Susan Lehr. The forensic report (Exhibit 1) was admitted into evidence. Defendant's attorney made an offer of proof.

I find by a preponderance of the evidence that the defendant is not presently suffering from a mental disease or defect which renders him mentally incompetent to understand the nature and consequences of the proceedings against him or to assist

properly in his defense pursuant to 18 U.S.C. § 4241. Accordingly, I find that this case should be further progressed.

**IT IS ORDERED:**

1. Defendant's Motion to Determine Mental Competency of the defendant to Stand Trial (#33 in Case No. 8:15CR76 and #21 in Case No. 8:15CR79) is denied.

2. The defendant is not suffering from any mental disease or defect which renders him mentally incompetent to understand the nature and consequences of the proceedings against him or to assist properly in his defense pursuant to 18 U.S.C. § 4241.

3. These cases will be progressed by separate order.

Dated this 29th day of January 2016.

BY THE COURT:

s/ F.A. Gossett, III  
United States Magistrate Judge